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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,657	01/08/2002	Jeff Skillern	SKIL-001CON	6012
29698	7590	09/10/2007		
LEIGH P. GREGORY PO BOX 168 CLEMSON, SC 29633-0168			EXAMINER VANTERPOOL, LESTER L	
			ART UNIT 3782	PAPER NUMBER
			MAIL DATE 09/10/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/043,657

Applicant(s)

SKILLERN, JEFF

Examiner

Lester L. Vanterpool

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 13, 15-22, 27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13, 15-22, 27 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 30, 2007 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 13, 15 & 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Strickland (U.S. Patent Number 4877128).

Strickland discloses the flexible pouch (10) including the plurality of layers (11, 12 & 17), wherein the plurality of layers (11, 12 & 17) are all permanently joined together to form an inner compartment (See internal area where (14) are stored in Figures 2 & 3) and at least one outer compartment (See area where (23) are stored in Figures 2 & 3), wherein the inner compartment (See internal area where (14) are stored in Figures 2 &

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3) and the at least one outer compartment (See area where (23) are stored in Figures 2 & 3) share a common layer (See Figure 2), at least one outer compartment (See space where (23) are stored in Figures 2 & 3) being at least partially filled with the thermal capacitance medium (23), and the at least one inner compartment for being filled with the liquid for consumption (14) (See Figure 2).

Regarding claim 15, Strickland discloses the pouch is formed by the first bag surrounded at least partially by the second bag (See Figures 1 – 4).

Regarding claim 17, Strickland discloses the medium (23) consist of a cooling medium (See Column 4, lines 5 – 8).

4. Claims 13, 15, 19 & 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Duckhouse (European Patent Number GB 2 274 096 A).

Duckhouse discloses the flexible pouch including the plurality of layers (1, 3 & 5), wherein the plurality of layers (1, 3, & 5) are all permanently joined together to form an inner compartment and at least one outer compartment (See Abstract) (See Figure 1), wherein the inner compartment (See first chamber in Abstract) and the at least one outer compartment (See second chamber in Abstract) share a common layer (3), at least one outer compartment (See second chamber in Abstract) capable of at least being partially filled with thermal capacitance medium, and the at least one inner compartment (See first chamber in Abstract) for being filled with the liquid.

Regarding claim 15, Duckhouse discloses the pouch is formed by the first bag surrounded at least partially by the second bag (See Figure 1).

Regarding claim 19, Duckhouse discloses the conduit (19 & 21) having an inlet (9 & 11) and an outlet (See opposite end of 9 & 11 in Figure 1), the inlet (9) being in fluid communication with the inner compartment for drinking (See first chamber in Abstract).

Regarding claim 21, Duckhouse discloses the pack configured to receive the pouch and be wearable by the user (See Abstract).

5. Claims 13, 15 & 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Musielak (U.S. Patent Number 5007250).

Musielak discloses the flexible pouch (10) including the plurality of layers (See Figures 2 & 3), wherein the plurality of layers (See Figures 2 & 3) are all permanently joined together to form an inner compartment (22) and at least one outer compartment (40), wherein the inner compartment (2) and at least the outer compartment (40) share a common layer (See Figures 2 & 3), at least one outer compartment (40) being at least partially filled with a thermal capacitance medium (50) (See Column 3, lines 40 – 50), and the at least one inner compartment (22) being filled with the liquid (48) for consumption (See Column 3, lines 34 – 39) (See Figure 5).

Regarding claim 15, Musielak discloses the pouch (10) is formed by the first bag surrounded at least partially by the second bag (See Figure 3).

Regarding claim 17, Musielak discloses the medium (50) consists of the cooling medium (See Column 3, lines 40 – 40).

6. Claim 13, 17, 19, 20, 21 & 27 & 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Motsenbocker (U.S. Patent Number 4420097).

Motsenbocker discloses the flexible pouch (14) including the plurality of layers (15 & 17), wherein the plurality of layers (15 & 17) are all permanently joined together (31 & 33) to form the inner compartment (See internal space of (14) in Figures 3 & 4) and at least one outer compartment (25), wherein, the inner compartment (See internal space of (14) in Figures 3 & 4) and the at least one outer compartment (See internal space of (25) in Figures 3 & 4) share a common layer (See bottom shared layers of (14 & 25) in Figures 3 & 4), the at least one outer compartment (See internal space of (25) in Figures 3 & 4) being at least partially filled with the thermal capacitance medium (27), and the at least one inner compartment (See internal space of (14) in Figures 3 & 4) for being filled with a liquid for consumption (See Figures 3 & 4).

Regarding claim 15, Motsenbocker discloses the pouch (14) is formed by the first bag surrounded at least partially by the second bag (See Column 3, lines 22 – 23) (See Figures 2 & 3).

Regarding claim 17, Motsenbocker discloses the medium (27) consists of a cooling medium (See Column 3, lines 23 & 24).

Regarding claim 19, Motsenbocker discloses conduit (16) having an inlet and an outlet (See Figures 2 & 5), the inlet (See Figure 2) being in fluid communication with the inner compartment for drinking fluid (14) {(See Column 2, lines 67 – 68) & (See Column 3, lines 1 – 3)} (See Figure 2).

Regarding claim 20, Motsenbocker discloses the valve (18) at the conduit outlet (See Figures 2 & 5).

Regarding claim 21, Motsenbocker discloses the pack (12) configured to receive the pouch (14) and be wearable by the user {(See Column 2, lines 66 – 68) & (See Column 3, lines 55 – 68)} (See Figure 1).

Regarding claim 27, Motsenbocker discloses the medium (27) comprises the gel (See Column 3, lines 23 – 27).

Regarding claim 28, Motsenbocker discloses at least one outer compartment (See internal space of (25) in Figures 3 & 4) is formed on at least one side of the inner compartment (See internal space of (14) in Figures 3 & 4) (See Figures 3 & 4).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Motsenbocker (U.S. Patent Number 4420097) in view of Boxer et al., (U.S. Patent Number 4526298).

However, Motsenbocker does not disclose the pouch is formed by a first sleeve surrounded at least partially by a second sleeve.

Boxer et al., teaches the pouch (78) is formed by the first sleeve (82) surrounded at least partially by the second sleeve (84) (See Figure 7).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the pouch formed by the first sleeve surrounded at least partially by the second sleeve as taught by Boxer et al., with the hydration system of Motsenbocker in order to enhance insulation.

9. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Motsenbocker (U.S. Patent Number 4420097) in view of Van Turnhout (U.S. Patent Number 6044201).

However, Motsenbocker does not disclose the medium consists of a heating medium.



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Van Turnhout teaches the medium consists of a heating medium.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the medium consists of a heating medium as taught by Van Turnhout with the hydration system of Motsenbocker in order to keep beverages such as tea warm.

10. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Motsenbocker (U.S. Patent Number 4420097).

Motsenbocker discloses the flexible pouch (14) including the plurality of layer (15 & 17), the plurality of layers (15 & 17) all being permanently joined together (31 & 33) to form an inner compartment (See internal space of (14) in Figures 3 & 4) and at least one outer compartment (See internal space of (25) in Figures 3 & 4), wherein the inner compartment (See internal space of (14) in Figures 3 & 4) and at least one outer compartment (See internal space of (25) in Figures 3 & 4) share a common layer (See bottom shared layers of (14 & 25) in Figures 3 & 4);

the conduit (16) having an inlet (See Figure 2) and an outlet (20); and

pack (12) including the housing portion and strap (38) (See Column 2, lines 66 – 67),

wherein the inner compartment (See internal space of (14) in Figures 3 & 4) is for being filled with a drinking fluid,

wherein at least one outer compartment (See internal space of (25) in Figures 3 & 4) is at least partially filled with a thermal capacitance medium (27),

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wherein the conduit inlet (See Figure 2) is in fluid communication with the compartment for drinking fluid (See Figure 2), and the outlet (See Figures 2 & 5) is capped by a valve (18), the valve (18) being a bit-valve (26) articulable by the jaws of a user,

wherein the drinking fluid compartment (14) is in fluid communication with a sealable opening (23) for filling the drinking fluid compartment, and

wherein the flexible pouch (14) is receivable within the housing portion of the pack (12) (See Column 2, lines 66 – 67).

However, Motsenbocker does not disclose straps.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make straps, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ.

### ***Response to Arguments***

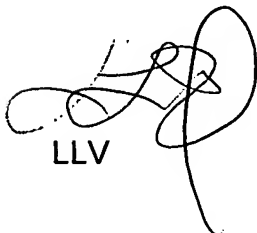
11. Applicant's arguments, see pages 5 - 19, filed July 30, 2007, with respect to the rejection(s) of claim(s) 13, 15 – 22, 27 & 28 under 35 U.S.C. 103(a) as being unpatentable over Boxer et al., (U.S. Patent Number 4526298 in view of Padamesee (U.S. Patent Number 5398848) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Motsenbocker (U.S. Patent Number 4420097).

***Conclusion.***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lester L. Vanterpool whose telephone number is 571-272-8028. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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